

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FREDDY MARTINEZ,	:	
	:	
Petitioner,	:	
	:	13-CV-1854 (JPO)
-v-	:	
	:	<u>OPINION AND ORDER</u>
HOWARD HUFFARD, as Warden, Federal	:	
Correctional Institute – Otisville,	:	
	:	
Respondent.	:	
-----	X	

J. PAUL OETKEN, District Judge:

Petitioner Freddy Martinez brings this petition for a writ of habeas corpus under 28 U.S.C. § 2241, arguing that the Bureau of Prisons erred in reducing the amount good conduct time (“GCT”) that he is eligible to receive.

On February 4, 2014, the Honorable Sarah Netburn, United States Magistrate Judge, issued a Report and Recommendation concluding that Martinez is not eligible to receive the full amount of GCT because he withdrew from his prison’s literacy program. (Dkt. No. 17.) Judge Netburn also requested supplemental briefing on Martinez’s separate equal protection and GCT miscalculation claims. In a second Report and Recommendation dated July 8, 2014, she recommended that the Court dismiss these claims and that Martinez’s habeas petition be denied. (Dkt. No. 30.) Martinez did not file any objections.

On November 11, 2014, this Court requested supplemental briefing from Respondent as to whether Martinez had a cognizable liberty interest in the status of being able to earn 54 days of GCT, and if so, whether he was afforded adequate due process when he was deprived of that interest. (Dkt. No. 31.) Respondent filed the requested briefing on December 19, 2014. (Dkt. No. 34.)

The district court is entitled to “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Portions of the magistrate judge’s findings or recommendations to which objection is made, if any, are reviewed *de novo* by the district court. *Id.* Where a party does not object, or files objections of a merely “general” or “conclusory” nature, courts review reports for clear error. *Legall v. Colvin*, No. 13-CV-1426 (VN), 2014 WL 4494753, at *1 (S.D.N.Y. Sept. 10, 2014); *see also Batista v. Walker*, No. 94-CV-2826 (SS), 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) (“I am permitted to adopt those sections of a magistrate judge’s report to which no specific objection is made, so long as those sections are not facially erroneous.”) (brackets and internal quotation marks omitted).

As Martinez failed to file objections, the Court reviewed Judge Netburn’s Reports for clear error and found none. Accordingly, the Reports are hereby ADOPTED and Martinez’s petition for a writ of habeas corpus is DENIED.

SO ORDERED.

Dated: April 21, 2015
New York, New York



J. PAUL OETKEN
United States District Judge

Copy mailed to Pro Se party by chambers.